



Judiciary Committee

**Tuesday, April 4, 2006
10:15 A.M. – 11:00 A.M.
Morris Hall
(17 HOB)**

Committee Action Packet

COMMITTEE MEETING REPORT

Judiciary Committee

4/4/2006 10:15:00AM

Location: Morris Hall (17 HOB)

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
David Simmons (Chair)	X		
Kevin Ambler	X		
Dennis Baxley	X		
Frederick Brummer	X		
Anitere Flores	X		
Dan Gelber	X		
Michael Grant	X		
Jeffrey Kottkamp	X		
Sheri McInvale	X		
Joe Pickens			X
Juan-Carlos Planas	X		
Curtis Richardson	X		
Dennis Ross	X		
John Seiler	X		
Totals:	13	0	1

Committee meeting was reported out: Tuesday, April 04, 2006 12:21:27PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/4/2006 10:15:00AM

Location: Morris Hall (17 HOB)

HB 129 : Lawful Ownership, Possession, and Use of Firearms and Other Weapons

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Kevin Ambler	X				
Dennis Baxley	X				
Frederick Brummer			X		
Anitere Flores	X				
Dan Gelber			X		
Michael Grant	X				
Jeffrey Kottkamp	X				
Sheri McInvale	X				
Joe Pickens			X		
Juan-Carlos Planas	X				
Curtis Richardson		X			
Dennis Ross			X		
John Seiler		X			
David Simmons (Chair)	X				
Total Yeas: 8		Total Nays: 2			

HB 129 Amendments

Amendment 1

☒ Withdrawn

Amendment 2

☒ Withdrawn

Amendment 3

☒ Withdrawn

Committee meeting was reported out: Tuesday, April 04, 2006 12:21:27PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/4/2006 10:15:00AM

Location: Morris Hall (17 HOB)

Amendment 4

☒ Adopted

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Kevin Ambler	X				
Dennis Baxley	X				
Frederick Brummer			X		
Anitere Flores	X				
Dan Gelber			X		
Michael Grant	X				
Jeffrey Kottkamp	X				
Sheri McInvale	X				
Joe Pickens			X		
Juan-Carlos Planas	X				
Curtis Richardson	X				
Dennis Ross			X		
John Seiler	X				
David Simmons (Chair)	X				
Total Yays: 10		Total Nays: 0			

Amendment 4a

☒ Withdrawn

Appearances:

Amendment 4a

Marion Hammer (Lobbyist) - Opponent

NRA & Unified Sportsmen of Florida

P.O. Box 1387

Tallahassee FL 32302

Phone: 850-222-9518

Amendment 4a

Bill Herrle (Lobbyist) - Proponent

Florida Retail Federation

227 S. Adams Street

Tallahassee FL 32317

Phone: 850-222-4082

Committee meeting was reported out: Tuesday, April 04, 2006 12:21:27PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/4/2006 10:15:00AM

Location: Morris Hall (17 HOB)

Amendment 4a

Mark Wilson (Lobbyist) - Proponent

Florida Chamber of Commerce

136 South Bronough St.

Tallahassee FL 32301

Phone: 850-521-1209

Committee meeting was reported out: Tuesday, April 04, 2006 12:21:27PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. HB 129

COUNCIL/COMMITTEE ACTION

ADOPTED	— (Y/N)
ADOPTED AS AMENDED	— (Y/N)
ADOPTED W/O OBJECTION	— (Y/N)
FAILED TO ADOPT	— (Y/N)
WITHDRAWN	<input checked="" type="checkbox"/> (Y/N)
OTHER	—

1 Council/Committee hearing bill: Judiciary

2 Representatives Simmons and Baxley offered the following:

4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 790.25, Florida Statutes, is amended to
7 read:

8 790.25 Lawful ownership, possession, and use of firearms
9 and other weapons.--

10 (1) DECLARATION OF POLICY.--The Legislature finds as a
11 matter of public policy and fact that it is necessary to promote
12 firearms safety and to curb and prevent the use of firearms and
13 other weapons in crime and by incompetent persons without
14 prohibiting the lawful use in defense of life, home, and
15 property, and the use by United States or state military
16 organizations, and as otherwise now authorized by law, including
17 the right to use and own firearms for target practice and
18 marksmanship on target practice ranges or other lawful places,
19 and lawful hunting and other lawful purposes.

20 (2) USES NOT AUTHORIZED.--

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

21 (a) This section does not authorize carrying a concealed
22 weapon without a permit, as prohibited by ss. 790.01 and 790.02.

23 (b) The protections of this section do not apply to the
24 following:

25 1. A person who has been adjudged mentally incompetent,
26 who is addicted to the use of narcotics or any similar drug, or
27 who is a habitual or chronic alcoholic, or a person using
28 weapons or firearms in violation of ss. 790.07-790.12, 790.14-
29 790.19, 790.22-790.24.†

30 2. Vagrants and other undesirable persons as defined in s.
31 856.02.†

32 3. A person in or about a place of nuisance as defined in
33 s. 823.05, unless such person is there for law enforcement or
34 some other lawful purpose.

35 (3) LAWFUL USES.--The provisions of ss. 790.053 and 790.06
36 do not apply in the following instances, and, despite such
37 sections, it is lawful for the following persons to own,
38 possess, and lawfully use firearms and other weapons,
39 ammunition, and supplies for lawful purposes:

40 (a) Members of the Militia, National Guard, Florida State
41 Defense Force, Army, Navy, Air Force, Marine Corps, Coast Guard,
42 organized reserves, and other armed forces of the state and of
43 the United States, when on duty, when training or preparing
44 themselves for military duty, or while subject to recall or
45 mobilization.†

46 (b) Citizens of this state subject to duty in the Armed
47 Forces under s. 2, Art. X of the State Constitution, under
48 chapters 250 and 251, and under federal laws, when on duty or
49 when training or preparing themselves for military duty.†

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

50 (c) Persons carrying out or training for emergency
51 management duties under chapter 252.†

52 (d) Sheriffs, marshals, prison or jail wardens, police
53 officers, Florida highway patrol officers, game wardens, revenue
54 officers, forest officials, special officers appointed under the
55 provisions of chapter 354, and other peace and law enforcement
56 officers and their deputies and assistants and full-time paid
57 peace officers of other states and of the Federal Government who
58 are carrying out official duties while in this state.†

59 (e) Officers or employees of the state or United States
60 duly authorized to carry a concealed weapon.†

61 (f) Guards or messengers of common carriers, express
62 companies, armored car carriers, mail carriers, banks, and other
63 financial institutions, while actually employed in and about the
64 shipment, transportation, or delivery of any money, treasure,
65 bullion, bonds, or other thing of value within this state.†

66 (g) Regularly enrolled members of any organization duly
67 authorized to purchase or receive weapons from the United States
68 or from this state, or regularly enrolled members of clubs
69 organized for target, skeet, or trap shooting, while at or going
70 to or from shooting practice; or regularly enrolled members of
71 clubs organized for modern or antique firearms collecting, while
72 such members are at or going to or from their collectors' gun
73 shows, conventions, or exhibits.†

74 (h) A person engaged in fishing, camping, or lawful
75 hunting or going to or returning from a fishing, camping, or
76 lawful hunting expedition.†

77 (i) A person engaged in the business of manufacturing,
78 repairing, or dealing in firearms, or the agent or

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

79 representative of any such person while engaged in the lawful
80 course of such business.†

81 (j) A person firing weapons for testing or target practice
82 under safe conditions and in a safe place not prohibited by law
83 or going to or from such place.†

84 (k) A person firing weapons in a safe and secure indoor
85 range for testing and target practice.†

86 (l) A person traveling by private conveyance when the
87 weapon is securely encased or in a public conveyance when the
88 weapon is securely encased and not in the person's manual
89 possession.†

90 (m) A person while carrying a pistol unloaded and in a
91 secure wrapper, concealed or otherwise, from the place of
92 purchase to his or her home or place of business or to a place
93 of repair or back to his or her home or place of business.†

94 (n) A person possessing arms at his or her home or place
95 of business.†

96 (o) Investigators employed by the several public defenders
97 of the state, while actually carrying out official duties,
98 provided such investigators:

99 1. Are employed full time;

100 2. Meet the official training standards for firearms
101 established by the Criminal Justice Standards and Training
102 Commission as provided in s. 943.12(5) and the requirements of
103 ss. 493.6108(1)(a) and 943.13(1)-(4); and

104 3. Are individually designated by an affidavit of consent
105 signed by the employing public defender and filed with the clerk
106 of the circuit court in the county in which the employing public
107 defender resides.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

(p) Investigators employed by the capital collateral representative, while actually carrying out official duties, provided such investigators:

1. Are employed full time;
2. Meet the official training standards for firearms as established by the Criminal Justice Standards and Training Commission as provided in s. 943.12(1) and the requirements of ss. 493.6108(1)(a) and 943.13(1)-(4); and
3. Are individually designated by an affidavit of consent signed by the capital collateral representative and filed with the clerk of the circuit court in the county in which the investigator is headquartered.

(4) CONSTRUCTION.--This act shall be liberally construed to carry out the declaration of policy herein and in favor of the constitutional right to keep and bear arms for lawful purposes. This act is supplemental and additional to existing rights to bear arms now guaranteed by law and decisions of the courts of Florida, and nothing herein shall impair or diminish any of such rights. This act shall supersede any law, ordinance, or regulation in conflict herewith.

(5) POSSESSION IN PRIVATE CONVEYANCE.--Notwithstanding subsection (2), it is lawful and is not a violation of s. 790.01 for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use. Nothing herein contained prohibits the carrying of a legal firearm other than a handgun anywhere in a private conveyance when such firearm is being carried for a lawful use. Nothing herein

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

138 contained shall be construed to authorize the carrying of a
139 concealed firearm or other weapon on the person. This subsection
140 shall be liberally construed in favor of the lawful use,
141 ownership, and possession of firearms and other weapons,
142 including lawful self-defense as provided in s. 776.012.

143 (6) STORAGE AND TRANSPORT OF FIREARMS LOCKED INSIDE OR
144 LOCKED TO A MOTOR VEHICLE IN A PARKING AREA; PENALTY; IMMUNITY
145 FROM LIABILITY.--

146 (a) As used in this subsection, the term:

147 1. "motor vehicle" means any automobile, truck, minivan,
148 sports utility vehicle, motorcycle, motor scooter, or any other
149 similar vehicle required to be registered under Florida law.

150 2. "employee" means any person who works for salary,
151 wages, or other remuneration; is an independent contractor; or
152 is a volunteer, intern, or other similar individual for an
153 employer.

154 3. "employer" means any business that is a sole
155 proprietorship, partnership, corporation, limited liability
156 company, professional association, cooperative, joint venture,
157 trust, firm, institution, or association, with employees.

158 4. "invitee" means any business invitee, including a
159 customer or visitor lawfully on the premises.

160 (b) Except as provided in paragraph (e), no employer, or
161 landlord of an employer, shall establish, maintain, or enforce
162 any policy or rule that prohibits or has the effect of
163 prohibiting an employee or invitee in lawful possession of a
164 firearm from parking a motor vehicle on any property used for
165 that purpose when the employee or invitee is lawfully in such
166 area and the firearm is actually locked inside or locked to the
167 motor vehicle, unless, at its own election, the employer, or

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

168 landlord of the employer, provides the employee or invitee with
169 the opportunity to:

170 1. check, store, or secure the firearm of the employee or
171 invitee subject to reasonable conditions; or

172 2. park in an onsite area set aside by the employer, or
173 landlord of the employer, for parking motor vehicles with a
174 firearm locked inside or locked to the motor vehicle. In the
175 event the employer, or landlord of the employer, elects to
176 provide such onsite area, it shall be as convenient as other
177 employee or invitee parking and shall not be marked or posted as
178 a special parking area for such purposes; or

179 3. notify the employer, or landlord of the employer, or
180 their designee, that the employee or invitee intends, from time
181 to time, to be in lawful possession of a firearm locked inside
182 or locked to a motor vehicle.

183 (c)1. No employer, or landlord of an employer, or employee
184 imposing or implementing a policy under paragraph (b), shall be
185 liable in any civil or other action for any harm that arises out
186 of, or results from, directly or indirectly, the use or
187 threatened use of a firearm that was being transported and
188 stored by an employee or invitee and was locked inside of or
189 locked to a motor vehicle on any property owned or leased by an
190 employer, or landlord of an employer, and used for parking motor
191 vehicles. The immunity provided in this sub-paragraph extends
192 to the vicarious liability of an employer or landlord of an
193 employer that arises out of, or results from, directly or
194 indirectly, the use or threatened use of a firearm that was
195 being transported and stored by an employee or invitee and was
196 locked inside of or locked to a motor vehicle on any property
197 owned or leased by an employer, or landlord of an employer, and

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

198 used for parking motor vehicles. The immunity provided in this
199 sub-paragraph shall not apply to any person who uses or
200 threatens to use a firearm or other weapon. The immunity
201 provided in this sub-paragraph shall not apply if the harm
202 involved was caused, in whole or in part, by the willful or
203 criminal misconduct of the employer, or landlord of the
204 employer, or a conscious and flagrant indifference to the safety
205 of the person or persons harmed.

206 2. A civil fine of \$10,000, per aggrieved employee or
207 invitee, shall be imposed for each violation of the prohibition
208 in paragraph (b).

209 (d) It is the intent of this subsection to reinforce and
210 protect the right of each law-abiding employee or invitee to
211 enter and exit any property owned or leased by an employer, or
212 landlord of an employer, and used for parking motor vehicles
213 while the employee or invitee is lawfully transporting and
214 storing a firearm in the motor vehicle and the firearm is locked
215 inside or locked to the motor vehicle, to avail himself or
216 herself of temporary or long-term parking or storage of a motor
217 vehicle, and to prohibit any infringement of the right to lawful
218 possession of the firearm when the firearm is being transported
219 and stored inside or locked to a motor vehicle for a lawful
220 purpose.

221 (e) The prohibition in paragraph (b) does not apply to:

222 1. property owned or leased by an employer, or landlord of
223 an employer, upon which are conducted activities involving
224 national defense, aerospace, or domestic security.

225 2. property owned or leased by an employer, or landlord of
226 an employer, upon which a significant portion of the business
227 conducted on such property involves the manufacture, use,

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

storage, sale, or transportation of hazardous or ultra-hazardous materials regulated under state or federal law, including combustible or explosive materials.

3. a motor vehicle owned, leased, or rented by an employer, or landlord of an employer, or its agent.

4. any other property owned or leased by an employer, or landlord of an employer, where an employee or invitee is prohibited from having a firearm pursuant to any federal law or any existing state general law on the effective date of this act.

Section 2. This act shall take effect July 1, 2006.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

An act relating to lawful ownership, possession, and use of firearms; amending s. 790.25, F.S., relating to lawful ownership, possession, and use of firearms and other weapons; providing definitions; prohibiting specified employers and landlords of employers in certain circumstances from establishing, maintaining, or enforcing any policy or rule that prohibits certain employees and invitees from parking a motor vehicle on property set aside for such purpose when a secured firearm is being lawfully transported and stored in the motor vehicle; providing for specified immunity from liability; providing a civil penalty; providing intent; providing exceptions; providing an effective date.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES
Amendment No. 1A

Bill No. HB 129

COUNCIL/COMMITTEE ACTION

ADOPTED — (Y/N)
ADOPTED AS AMENDED — (Y/N)
ADOPTED W/O OBJECTION — (Y/N)
FAILED TO ADOPT ☒ (Y/N) (5/7)
WITHDRAWN — (Y/N)
OTHER —

Council/Committee hearing bill: Judiciary

Representative Kottkamp offered the following:

**Amendment to Amendment #1 by Representatives Simmons and
Baxley**

Remove lines 167-198 and insert:

motor vehicle.

(c)1. No employer, or landlord of an employer, or employee
imposing or implementing a policy under paragraph (b), shall be
liable for any harm that arises out of, or results from, the use
of a firearm that was being transported and stored by an
employee or invitee and was locked inside of or locked to a
motor vehicle on any property owned or leased by an employer, or
landlord of an employer, and used for parking motor vehicles.
The immunity provided in this

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. **HB 129**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN ☒ (Y/N)
OTHER _____

Council/Committee hearing bill: Judiciary

Representative(s) Baxley & Kottkamp offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 790.251, Florida Statutes, is created to read:

790.251 Privacy and personal property protection; storage and transport of personal property locked inside or locked to a motor vehicle in a parking area; penalty; immunity from liability.--

(1) SHORT TITLE.--This act may be cited as the "Individual Personal Private Property Protection Act."

(2) LEGISLATIVE INTENT.--This act is intended to codify the longstanding legislative policy of this state that:

(a) Citizens have a constitutional right to privacy;

(b) Citizens have a constitutional right to possess and securely keep legal private property within their motor vehicles, particularly such property as is necessary for or incidental to their exercise of other constitutional rights; and

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

21 (c) These rights are not abrogated by virtue of a
22 citizen's becoming a customer, employee, or invitee of a
23 business entity.

24 (3) LEGISLATIVE FINDINGS.--The Legislature finds that
25 citizens' lawful possession, transportation, and secure keeping
26 of certain private property within their motor vehicles is
27 essential to the exercise of fundamental constitutional rights,
28 including freedom of speech, freedom of association, the free
29 exercise of religion, and to keep and bear arms. The Legislature
30 finds that there is a compelling state interest to protect the
31 fundamental private property rights of the citizens of Florida.
32 The Legislature further finds that a citizen is not required and
33 should not be required to waive or abrogate his or her right to
34 possess and securely keep such constitutionally protected
35 private property locked within his or her motor vehicle by
36 virtue of becoming a customer, employee, or invitee of an
37 employer or a business establishment within the state.

38 (4) DEFINITIONS.--As used in this section, the term:

39 (a) "Aggrieved person" means any customer, employee, or
40 invitee as defined in this subsection.

41 (b) "Employee" means a person who works for salary, wages,
42 or other remuneration; is an independent contractor; or is a
43 volunteer, intern, or other similar individual for an employer.

44 (c) "Employer" means a business that is a sole
45 proprietorship, partnership, corporation, limited liability
46 company, professional association, cooperative, joint venture,
47 trust, firm, institution, association, or public-sector entity,
48 which has employees.

49 (d) "Invitee" means any business invitee, including a
50 customer or visitor, who is lawfully on the premises.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

51 (e) "Motor vehicle" means any automobile, truck minivan,
52 sports utility vehicle, motor home, recreational vehicle,
53 motorcycle, or motor scooter, or any other vehicle, which is
54 operated on the roads of this state and is required to be
55 registered under Florida law.

56 (f) "Parking lot" means any property that is owned or
57 leased by an employer, or a landlord of an employer, and used
58 for parking motor vehicles and that is available to customers,
59 employees, or invitees for temporary or long-term parking or
60 storage of motor vehicles.

61 (5) PROHIBITED ACTS.--A public or private entity may not
62 violate the constitutional rights of any customer, employee, or
63 invitee as provided in this subsection:

64 (a) A public or private entity may not prohibit any
65 customer, employee or invitee from possessing any lawfully held
66 personal property if such property is locked inside or to a
67 private motor vehicle in a parking lot when the customer,
68 employee, or invitee is lawfully in such area.

69 (b) A public or private entity may not violate the privacy
70 rights of a customer, employee, or invitee by verbal inquiry or
71 actual search of a private motor vehicle in a parking lot. A
72 search of a private motor vehicle may be conducted only by on
73 duty law enforcement personnel and must comply with the due
74 process requirements of the Constitution of the State of Florida
75 and the United States Constitution.

76 (c) An employer may not condition employment upon
77 preventing or prohibiting, or otherwise attempt to prevent or
78 prohibit, any customer, employee, or invitee from keeping locked
79 within the trunk, glove box, other enclosed compartment, or area
80 out of sight within a motor vehicle any property or material the
81 lawful possession of which is protected by, or the lawful use of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

82 which is incidental to, the exercise of individual rights
83 protected under the United States Constitution and the State
84 Constitution.

85 (d) An employer may not terminate the employment of or
86 otherwise discriminate against an employee, or expel a customer
87 or invitee, for exercising his or her constitutional right to
88 keep and bear arms or the right of self-defense as long as a
89 firearm is never exhibited on company property except for lawful
90 defensive purposes.

91
92 This section applies to all public-sector employers, including
93 those that are already prohibited from regulating firearms under
94 s. 790.33.

95 (6) IMMUNITY FROM LEGAL LIABILITY.--An employer or a
96 landlord of an employer is not liable in a civil action that
97 arises, directly or indirectly, out of or results from the theft
98 of or the threatened use or accidental or criminal use of a
99 firearm or any other legal property that was stored in the
100 private motor vehicle by a customer, employee, or invitee in a
101 parking lot owned or leased by an employer or the landlord of an
102 employer. The immunity provided in this subsection does not
103 apply to a person who uses or threatens to use a firearm or
104 other weapon in a criminal act. The immunity provided in this
105 subsection does not apply if the harm involved was caused, in
106 whole or in part, by the willful or criminal misconduct of the
107 employer or the landlord of the employer.

108 (7) ENFORCEMENT.--The Attorney General shall enforce the
109 protections of this act on behalf of an aggrieved person if
110 there is reasonable cause to believe that the customer,
111 employee, or invitee's rights under this act have been violated
112 by a public or private entity and shall commence a civil or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

113 administrative action for damages, injunctive relief, or civil
114 penalties, and such other relief as may be appropriate under the
115 laws of this state pursuant to s. 760.51, or may negotiate a
116 settlement with an employer on behalf of an aggrieved person.

117 (8) The prohibitions in subsection (5) do not apply to:

118 (a) Property owned or leased by an employer, or the
119 landlord of an employer, upon which are conducted substantial
120 activities involving national defense, aerospace, or domestic
121 security if the presence of such private property in a parking
122 lot presents an increased danger of explosion or reasonably
123 predictable catastrophic event.

124 (b) Property owned or leased by an employer, or the
125 landlord of an employer, upon which the primary business
126 conducted is the manufacture, use, storage, or transportation of
127 combustible or explosive materials regulated under state or
128 federal law if the presence of such products in a parking lot
129 presents an increased danger of explosion or reasonably
130 predictable catastrophic event.

131 (c) A motor vehicle owned, leased, or rented by an
132 employer, or the landlord of an employer, or its agent.

133 (d) Any other property owned or leased by an employer, or
134 the landlord of an employer, if a customer, employee, or invitee
135 is prohibited from having a firearm or other legal product
136 pursuant to any federal law or any general law of this state
137 existing on the effective date of this act.

138 (e) Any school property as defined and regulated under s.
139 790.115.

140 (f) Any prison-facility grounds as defined and regulated
141 under s. 944.47.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

142 (g) Uses of firearms and other weapons which are
143 prohibited under s. 790.25(2). The restrictions provided in that
144 subsection are not affected by this section.

145 Section 2. This act shall take effect upon becoming a law
146 and shall apply to causes of action that accrue on or after that
147 date.

148
149 ===== T I T L E A M E N D M E N T =====

150 Remove the entire title and insert:
151 An act relating to the protection of constitutional rights;
152 creating s. 790.251, F.S.; creating the "Individual Personal
153 Private Property Protection Act"; providing legislative intent
154 and legislative findings; defining terms; prohibiting a public
155 or private entity from violating the constitutional rights of a
156 customer, employee, or invitee by prohibiting or otherwise
157 deterring that person from having certain lawful items locked in
158 or to the person's private motor vehicle while it is in a
159 parking lot or by discouraging exercise of the right to keep and
160 bear arms; providing immunity from legal liability to an
161 employer or landlord of an employer for certain acts arising out
162 of another person's storing legal property in a private motor
163 vehicle parked on the employer's or landlord's property;
164 requiring the Attorney General to enforce this section on behalf
165 of an aggrieved person; providing exceptions to the prohibitions
166 imposed by the act; providing an effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

Bill No. HB 129

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN ☒ (Y/N)
OTHER _____

Council/Committee hearing bill: Judiciary

Representative(s) Baxley & Kottkamp offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 790.251, Florida Statutes, is created
to read:

790.251 PRIVACY AND PERSONAL PROPERTY PROTECTION, STORAGE
AND TRANSPORT OF PERSONAL PROPERTY LOCKED INSIDE OR LOCKED TO A
MOTOR VEHICLE; PENALTY; --

(1) LEGISLATIVE INTENT. -- This Act is intended to
codify the long-standing legislative policy of this State that:

(a) Citizens have a constitutional right to privacy; and

(b) Citizens have a constitutional right to possess and
securely keep legal private property within their motor
vehicles, particularly such property as is necessary for or
incidental to their exercise of other constitutional rights.

(2) LEGISLATIVE FINDINGS.--The Legislature finds that
citizens' lawful possession, transportation, and secure keeping
of certain private property within their motor vehicles is
essential to the exercise of fundamental constitutional rights
including due process of law, freedom from unreasonable searches

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

23 and seizures, freedom of speech, freedom of association, free
24 exercise of religion, and to keep and bear arms. The Legislature
25 finds that there is a compelling state interest to protect the
26 fundamental privacy rights of the citizens of Florida.

27 (3) A public or private entity may not violate the
28 privacy rights of a person either by inquiry or actual search of
29 a private motor vehicle. A search of a private motor vehicle
30 may only be conducted by on-duty law enforcement personnel and
31 must comply with the due process requirements of the Florida
32 Constitution and the Constitution of the United States.

33 (4) A public or private entity may not ask a customer,
34 invitee, or employee to reveal what is contained within a
35 private motor vehicle and a customer, invitee, or employee is
36 not required to reveal what is contained within a private motor
37 vehicle.

38 (5) For purposes of this section, "motor vehicle" means
39 any automobile, truck, minivan, sports utility vehicle, motor
40 home, recreational vehicle, motorcycle, motor scooter, or any
41 other vehicle operated on the roads of this state required to be
42 registered under Florida law.

43 (6) ENFORCEMENT.--The Attorney General shall enforce the
44 protections of this act on behalf of an aggrieved person if
45 there is reasonable cause to believe that the person's rights
46 under this act have been violated by a public or private entity
47 and shall commence a civil or administrative action for damages,
48 injunctive relief, and/or civil penalties and other such relief
49 as may be appropriate under the laws of this state pursuant to
50 the provisions of s. 760.51, or may negotiate a settlement with
51 any employer on behalf of any aggrieved person.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

Section 2. This act shall take effect upon becoming a law and shall apply to causes of action that accrue on or after that date.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

An act relating to the protection of constitutional rights; creating s. 790.251, F.S.; providing legislative intent and legislative findings; defining terms; prohibiting a public or private entity from violating the privacy rights of a person either by inquiry or actual search of a private motor vehicle; providing that a search of a private motor vehicle may only be conducted by on-duty law enforcement personnel in compliance with constitutional protections; providing that a public or private entity may not ask a customer, invitee, or employee to reveal what is contained within a private motor vehicle; defining "motor vehicle"; requiring the Attorney General to enforce the act on behalf of an aggrieved person; providing for damages, injunctive relief, and civil penalties; providing an effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4

Bill No. HB 129

COUNCIL/COMMITTEE ACTION

ADOPTED

✓ (Y/N) (10/0)

ADOPTED AS AMENDED

— (Y/N)

ADOPTED W/O OBJECTION

— (Y/N)

FAILED TO ADOPT

— (Y/N)

WITHDRAWN

— (Y/N)

OTHER

—

Council/Committee hearing bill: Judiciary

Representative Simmons offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 790.25, Florida Statutes, is amended to read:

790.25 Lawful ownership, possession, and use of firearms and other weapons.--

(6) STORAGE AND TRANSPORT OF FIREARMS LOCKED INSIDE OR LOCKED TO A MOTOR VEHICLE IN A PARKING LOT; IMMUNITY FROM LIABILITY.--

(a) As used in this subsection, the term:

1. "motor vehicle" means any automobile, truck, minivan, sports utility vehicle, motorcycle, motor scooter, or any other similar vehicle required to be registered under Florida law.

2. "employee" means any person who works for salary, wages, or other remuneration; is an independent contractor; or is a volunteer, intern, or other similar individual for an employer.

3. "employer" means any business with employees that is a sole proprietorship, partnership, corporation, limited liability

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4

company, professional association, cooperative, joint venture,
trust, firm, institution, or association.

4. "invitee" means any business invitee, including a
customer or visitor lawfully on the premises.

5. "Parking lot" means any property that is owned or
leased by an employer, or a landlord of an employer, and used
for parking motor vehicles and that is available to customers,
employees, or invitees for temporary or long-term parking or
storage of motor vehicles.

(b) Except as prohibited pursuant to paragraphs (c) or
(d), an employee or invitee in lawful possession of a firearm
may transport and store a firearm locked inside or locked to his
or her motor vehicle in a parking lot designated by the employer
or its lessor if the firearm is stored out of sight.

(c) An employer or its lessor may prohibit an employee or
invitee from transporting, storing, or possessing a firearm on
property owned, leased, or controlled by the employer or its
lessor, or from transporting, storing, or possessing a firearm
in any motor vehicle owned, leased, or rented by the employer,
when reasonably necessary for the safety and welfare of
employees, invitees, or the general public, or to safeguard
business operations.

(d) The provisions of this subsection do not apply to:

1. school property as defined and regulated under s.
790.115.

2. prison-facility grounds as defined and regulated under
s. 944.47.

3. property on which an employee or invitee is otherwise
prohibited from transporting, storing, or possessing a firearm
pursuant to any federal or state law.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4

(e) No employer or its lessor, nor any employee of either, shall be liable for any harm that arises out of or results from, directly or indirectly, the discharge or threatened use of a firearm that was transported or stored by an employee or invitee in a motor vehicle on property owned or leased by the employer or its lessor. The immunity provided in this paragraph shall not apply to any person who discharges or threatens to use the firearm, but it shall extend to the vicarious liability of an employer or its lessor for the actions or inactions of others. The immunity provided in this paragraph shall not apply if the harm involved was caused, in whole or in part, by the employer's or lessor's willful or criminal misconduct or by the employer's or lessor's conscious and flagrant indifference to the safety of the person or persons harmed.

(f) The Attorney General shall enforce the protections of this subsection on behalf of an aggrieved employee or invitee if there is reasonable cause to believe that the rights of the employee or invitee under this act have been willfully violated by an employer or its lessor.

(g) The provisions of this subsection shall not be construed in derogation of Florida's employment at will doctrine.

Section 2. This act shall take effect upon becoming a law and shall apply to causes of action that accrue on or after that date.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

An act relating to lawful ownership, possession, and use of firearms; amending s. 790.25, F.S., relating to lawful

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4

ownership, possession, and use of firearms and other weapons;
providing definitions; authorizing an employee or invitee in
lawful possession of a firearm to transport and store a firearm
in a motor vehicle under certain conditions; authorizing an
employer or its lessor to prohibit an employee or invitee from
transporting, storing, or possessing a firearm under certain
conditions when reasonably necessary for the safety and welfare
of employees, invitees, or the general public, or to safeguard
business operations; providing exceptions; providing for
specified immunity from liability; providing enforcement by the
Attorney General; providing an effective date.

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Committee on _____

Action Withdrawn

Date _____

HOUSE AMENDMENT FOR DRAFTING PURPOSES ONLY

(may be used in Committee, but not on House Floor)

Amendment No. 4a

Bill No. HB 129

(For filing with the Clerk, Committee and Member Amendments **must** be prepared on computer)

If amendment is text of another bill insert:

Bill No. _____ Draft No. _____

Representative(s)/The Committee on PLANNERS

offered the following amendment: to Amendment #4 by Simon

Amendment

on page _____, line REMOVE
5 40-43,

in any motor vehicle owned, leased
or rented by the employer.

COMMITTEE MEETING REPORT

Judiciary Committee

4/4/2006 10:15:00AM

Location: Morris Hall (17 HOB)

HB 339 CS : Sexual Predators

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Kevin Ambler			X		
Dennis Baxley	X				
Frederick Brummer	X				
Anitere Flores	X				
Dan Gelber			X		
Michael Grant	X				
Jeffrey Kottkamp	X				
Sheri McInvale				X	
Joe Pickens			X		
Juan-Carlos Planas	X				
Curtis Richardson	X				
Dennis Ross			X		
John Seiler	X				
David Simmons (Chair)	X				
Total Yeas: 9		Total Nays: 0			

HB 339 CS Amendments

Amendment 1

☒ Adopted Without Objection

Committee meeting was reported out: Tuesday, April 04, 2006 12:21:27PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. HB 339 CS

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION ☒ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Judiciary
Representative Simmons offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraphs (f) and (g) of subsection (2), paragraph (b) of subsection (3), subsection (7) and paragraph (b) of subsection (10) of section 775.21, Florida Statutes, are amended to read:

775.21 The Florida Sexual Predators Act.--

(2) DEFINITIONS.--As used in this section, the term:

(f) "Permanent residence" means a place where the person abides, lodges, or resides for 5 ~~14~~ or more consecutive days.

(g) "Temporary residence" means a place where the person abides, lodges, or resides for a period of 5 ~~14~~ or more days in the aggregate during any calendar year and which is not the person's permanent address; for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state~~7. or a place where the person routinely abides, lodges, or resides for a period of 4 or more~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

~~consecutive or nonconsecutive days in any month and which is not
the person's permanent residence, including any out of state
address.~~

(3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE INTENT.--

(b) The high level of threat that a sexual predator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the state with sufficient justification to implement a strategy that includes:

1. Incarcerating sexual predators and maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space.

2. Providing for specialized supervision of sexual predators who are in the community by specially trained probation officers with low caseloads, as described in ss. 947.1405(7) and 948.30. The sexual predator is subject to specified terms and conditions implemented at sentencing or at the time of release from incarceration, with a requirement that those sexual predators found to be indigent ~~who are financially able must pay all or part of the costs of supervision~~ may defer payment pursuant to s. 28.246 of all or part of the costs in accordance with the provisions of that section.

3. Requiring the registration of sexual predators, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities, communities, and the public.

4. Providing for community and public notification concerning the presence of sexual predators.

5. Prohibiting sexual predators from working with children, either for compensation or as a volunteer.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

(7) COMMUNITY AND PUBLIC NOTIFICATION.--

(a) Law enforcement agencies must inform members of the community and the public of a sexual predator's presence. Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence shall notify members of the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. Within 48 hours after receiving notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides shall notify each licensed day care center, elementary school, middle school, ~~and~~ high school, and library within a 1-mile radius of the temporary or permanent residence of the sexual predator of the presence of the sexual predator. Information provided to members of the community and the public regarding a sexual predator must include:

1. The name of the sexual predator;
2. A description of the sexual predator, including a photograph;
3. The sexual predator's current address, including the name of the county or municipality if known;
4. The circumstances of the sexual predator's offense or offenses; and
5. Whether the victim of the sexual predator's offense or offenses was, at the time of the offense, a minor or an adult.

This paragraph does not authorize the release of the name of any victim of the sexual predator.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

85 (10) PENALTIES.--

86 (b) A sexual predator who has been convicted of or found
87 to have committed, or has pled nolo contendere or guilty to,
88 regardless of adjudication, any violation, or attempted
89 violation, of s. 787.01, s. 787.02, or s. 787.025, where the
90 victim is a minor and the defendant is not the victim's parent;
91 s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s.
92 800.04; s. 827.071; s. 847.0133; or s. 847.0145, or a violation
93 of a similar law of another jurisdiction, when the victim of the
94 offense was a minor, and who works, whether for compensation or
95 as a volunteer, at any ~~business~~, school, day care center, park,
96 playground, library, or other business or place where children
97 regularly congregate, commits a felony of the third degree,
98 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

99 Section 2. Section 775.215, Florida Statutes, is created
100 to read:

101 775.215 Residency exclusions for sexual offenders or
102 predators; local ordinances preempted.--

103 (a) The establishment of residency exclusions applicable to
104 the residences of persons required to register as a sexual
105 offender or predator is expressly preempted to the state, and
106 the distances established in 794.065, 947.1405, and 948.30,
107 supersede any municipal or county ordinances imposing different
108 distances.

109 (b) A provision of any ordinance adopted by a county or
110 municipality prior to October 1, 2006, imposing residency
111 exclusions for the residences of persons subject to the
112 provisions of 794.065, 947.1405 or 948.30, is hereby repealed
113 and abolished as of the effective date of this act.

114 Section 3. Paragraph (a) of subsection (2) of section
115 775.24, Florida Statutes, is amended to read:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

116 775.24 Duty of the court to uphold laws governing sexual
117 predators and sexual offenders.--

118 (2) If a person meets the criteria in this chapter for
119 designation as a sexual predator or meets the criteria in s2.
120 943.0435, s. 944.606, s. 944.607, or any other law for
121 classification as a sexual offender, the court may not enter an
122 order, for the purpose of approving a plea agreement or for any
123 other reason, which:

124 (a) Exempts a person who meets the criteria for
125 designation as a sexual predator or classification as a sexual
126 offender from such designation or classification, or exempts
127 such person from the requirements for registration or community
128 and public notification imposed upon sexual predators and sexual
129 offenders or exempts such person from the residency exclusions
130 contained in ss. 794.065, 947.1405, and 948.30.

131 Section 4. Subsections (2) and (3) of section 794.065,
132 Florida Statutes, are created, and subsection (2) is
133 redesignated as subsection (4), and amended, to read:

134 794.065 Unlawful place of residence for persons convicted
135 of certain sex offenses.--

136 (2) It is unlawful for any person who has been convicted
137 of a violation of s. 787.01, s. 787.02, s. 794.011, s. 800.04,
138 s. 827.071, or s. 847.0145, regardless of whether adjudication
139 has been withheld, in which the victim of the offense was less
140 than 16 years of age, to reside within 1500 feet of any school,
141 day care center, park, library or playground. A person
142 violating this section and whose conviction under s. 787.01, s.
143 787.02, s. 794.011, s. 800.04, s. 827.071, or s. 847.0145 was
144 classified as a felony of the first degree or higher commits a
145 felony of the third degree, punishable as provided in s. 775.082
146 or s. 775.083. A person who violates this section and whose

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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conviction under s. 794.011, s. 800.04, s. 827.071, or s. 847.0145 was classified as a felony of the second or third degree commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) The distances in subsection (2) of this section shall be measured in a straight line from the offender's place of residence to the nearest boundary line of the school, day care center, park, playground, library or other business or place where children congregate. The distance may not be measured by a pedestrian route or automobile route.

(4)(2) This Subsection (1) of this section applies to any person convicted of a violation of s. 794.011, s. 800.04, s. 827.071, or s. 847.0145 for offenses that occur on or after October 1, 2004. Subsection (2) of this section applies to any person convicted of a violation of s. 787.01, s. 787.02, s. 794.011, s. 800.04, s. 827.071, or s. 847.0145 for offenses that occur on or after October 1, 2006.

Section 5. Paragraphs (a) and(c) of subsection (2), subsection (6), paragraph (c) of subsection (7), of section 947.1405, Florida Statutes, is amended, and subsection (10) of said section is created, to read:

947.1405 Conditional release program.--

(2) Any inmate who:

(a) Is convicted of a crime committed on or after October 1, 1988, and before January 1, 1994, and any inmate who is convicted of a crime committed on or after January 1, 1994, which crime is or was contained in category 1, category 2, category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida Rules of Criminal Procedure (1993), or is convicted of any offense on or after October 1, 2006, under one or more of the following:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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1. kidnapping, under 787.01 (1)(b);
2. false imprisonment, under 787.02 (1)(b);
3. sexual performance by a child, under 827.071; or
4. selling or buying of minors, under 847.01454

(c) 1. Is found to be a sexual predator under s. 775.21 or former s. 775.23, shall, upon reaching the tentative release date or provisional release date, whichever is earlier, as established by the Department of Corrections, be released under supervision subject to specified terms and conditions, including payment of the cost of supervision pursuant to s. 948.09. Such supervision shall be applicable to all sentences within the overall term of sentences if an inmate's overall term of sentences includes one or more sentences that are eligible for conditional release supervision as provided herein.

2. Effective July 1, 1994, and applicable for offenses committed on or after that date, the commission may require, as a condition of conditional release, that the releasee make payment of the debt due and owing to a county or municipal detention facility under s. 951.032 for medical care, treatment, hospitalization, or transportation received by the releasee while in that detention facility. The commission, in determining whether to order such repayment and the amount of such repayment, shall consider the amount of the debt, whether there was any fault of the institution for the medical expenses incurred, the financial resources of the releasee, the present and potential future financial needs and earning ability of the releasee, and dependents, and other appropriate factors.

3. If any inmate, other than an inmate required to register as a sexual predator or offender pursuant to s. 775.21 or 943.0435, placed on conditional release supervision is also subject to probation or community control, resulting from a

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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209 probationary or community control split sentence within the
210 overall term of sentences, the Department of Corrections shall
211 supervise such person according to the conditions imposed by the
212 court and the commission shall defer to such supervision. If the
213 court revokes probation or community control and resentsences the
214 offender to a term of incarceration, such revocation also
215 constitutes a sufficient basis for the revocation of the
216 conditional release supervision on any nonprobationary or
217 noncommunity control sentence without further hearing by the
218 commission. If any such supervision on any nonprobationary or
219 noncommunity control sentence is revoked, such revocation may
220 result in a forfeiture of all gain-time, and the commission may
221 revoke the resulting deferred conditional release supervision or
222 take other action it considers appropriate. If the term of
223 conditional release supervision exceeds that of the probation or
224 community control, then, upon expiration of the probation or
225 community control, authority for the supervision shall revert to
226 the commission and the supervision shall be subject to the
227 conditions imposed by the commission.

228 4. If any inmate required to register as a sexual predator
229 or offender pursuant to s. 775.21 or 943.0435 is placed on
230 conditional release supervision is also subject to probation or
231 community supervision, the period of court-ordered community
232 supervision may not be substituted for conditional release
233 supervision and shall follow the term of conditional release
234 supervision.

235 5. A panel of no fewer than two commissioners shall
236 establish the terms and conditions of any such release. If the
237 offense was a controlled substance violation, the conditions
238 shall include a requirement that the offender submit to random
239 substance abuse testing intermittently throughout the term of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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conditional release supervision, upon the direction of the correctional probation officer as defined in s. 943.10(3). The commission shall also determine whether the terms and conditions of such release have been violated and whether such violation warrants revocation of the conditional release.

(6) The commission shall review the recommendations of the department, and such other information as it deems relevant, and may conduct a review of the inmate's record for the purpose of establishing the terms and conditions of the conditional release. The commission may impose any special conditions it considers warranted from its review of the release plan and recommendation. If the commission determines that the inmate is eligible for release under this section, the commission shall enter an order establishing the length of supervision and the conditions attendant thereto. However, an inmate who has been convicted of a violation of chapter 794 or found by the court to be a sexual predator is subject to the maximum level of supervision provided, with the mandatory conditions as required in subsection (7), and that supervision shall continue through the end of the releasee's original court-imposed sentence. The length of supervision must not exceed the maximum penalty imposed by the court. The Commission may modify the conditions of supervision at any time.

(7)(a) Any inmate who is convicted of a crime committed on or after October 1, 1995, or who has been previously convicted of a crime committed on or after October 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is subject to conditional release supervision, shall have, in addition to any other conditions imposed, the following special conditions imposed by the commission:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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270 1. A mandatory curfew from 10 p.m. to 6 a.m. The
271 commission may designate another 8-hour period if the offender's
272 employment precludes the above specified time, and such
273 alternative is recommended by the Department of Corrections. If
274 the commission determines that imposing a curfew would endanger
275 the victim, the commission may consider alternative sanctions.

276 2. a. If the victim was under the age of 18, a prohibition
277 on living within 1,000 feet of a school, day care center, park,
278 playground, designated public school bus stop, or other place
279 where children regularly congregate. A releasee who is subject
280 to this subparagraph may not relocate to a residence that is
281 within 1,000 feet of a public school bus stop.

282 b. Beginning October 1, 2004, the commission or the
283 department may not approve a residence that is located within
284 1,000 feet of a school, day care center, park, playground,
285 designated school bus stop, or other place where children
286 regularly congregate for any releasee who is subject to this
287 subparagraph. On October 1, 2004, the department shall notify
288 each affected school district of the location of the residence
289 of a releasee 30 days prior to release and thereafter, if the
290 releasee relocates to a new residence, shall notify any affected
291 school district of the residence of the releasee within 30 days
292 after relocation. If, on October 1, 2004, any public school bus
293 stop is located within 1,000 feet of the existing residence of
294 such releasee, the district school board shall relocate that
295 school bus stop. Beginning October 1, 2004, a district school
296 board may not establish or relocate a public school bus stop
297 within 1,000 feet of the residence of a releasee who is subject
298 to this subparagraph. The failure of the district school board
299 to comply with this subparagraph shall not result in a violation
300 of conditional release supervision.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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301 c. Beginning October 1, 2006, neither the commission nor
302 the department may approve a residence located within 1,500 feet
303 of a school, day care center, park, playground, designated
304 school bus stop, library, or other business or place where
305 children regularly congregate for any releasee who is subject to
306 this subparagraph.

307 d. The distance provided in sub- subparagraph c. shall be
308 measured in a straight line from the offender's place of
309 residence to the nearest boundary line of the school, day care
310 center, park, playground, library or other business or place
311 where children congregate. The distance may not be measured by a
312 pedestrian route or automobile route.

313 3. Active participation in and successful completion of a
314 sex offender treatment program with qualified practitioners
315 specifically trained to treat sex offenders, at the releasee's
316 own expense. If a qualified practitioner is not available within
317 a 50-mile radius of the releasee's residence, the offender shall
318 participate in other appropriate therapy.

319 4. A prohibition on any contact with the victim, directly
320 or indirectly, including through a third person, unless approved
321 by the victim, the offender's therapist, and the sentencing
322 court.

323 5. If the victim was under the age of 18, a prohibition
324 against contact with children under the age of 18 without review
325 and approval by the commission. The commission may approve
326 supervised contact with a child under the age of 18 if the
327 approval is based upon a recommendation for contact issued by a
328 qualified practitioner who is basing the recommendation on a
329 risk assessment. Further, the sex offender must be currently
330 enrolled in or have successfully completed a sex offender
331 therapy program. The commission may not grant supervised contact

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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with a child if the contact is not recommended by a qualified practitioner and may deny supervised contact with a child at any time. When considering whether to approve supervised contact with a child, the commission must review and consider the following:

a. A risk assessment completed by a qualified practitioner. The qualified practitioner must prepare a written report that must include the findings of the assessment and address each of the following components:

(I) The sex offender's current legal status;

(II) The sex offender's history of adult charges with apparent sexual motivation;

(III) The sex offender's history of adult charges without apparent sexual motivation;

(IV) The sex offender's history of juvenile charges, whenever available;

(V) The sex offender's offender treatment history, including a consultation from the sex offender's treating, or most recent treating, therapist;

(VI) The sex offender's current mental status;

(VII) The sex offender's mental health and substance abuse history as provided by the Department of Corrections;

(VIII) The sex offender's personal, social, educational, and work history;

(IX) The results of current psychological testing of the sex offender if determined necessary by the qualified practitioner;

(X) A description of the proposed contact, including the location, frequency, duration, and supervisory arrangement;

(XI) The child's preference and relative comfort level with the proposed contact, when age-appropriate;

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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(XII) The parent's or legal guardian's preference regarding the proposed contact; and

(XIII) The qualified practitioner's opinion, along with the basis for that opinion, as to whether the proposed contact would likely pose significant risk of emotional or physical harm to the child.

The written report of the assessment must be given to the commission.

b. A recommendation made as a part of the risk-assessment report as to whether supervised contact with the child should be approved;

c. A written consent signed by the child's parent or legal guardian, if the parent or legal guardian is not the sex offender, agreeing to the sex offender having supervised contact with the child after receiving full disclosure of the sex offender's present legal status, past criminal history, and the results of the risk assessment. The commission may not approve contact with the child if the parent or legal guardian refuses to give written consent for supervised contact;

d. A safety plan prepared by the qualified practitioner, who provides treatment to the offender, in collaboration with the sex offender, the child's parent or legal guardian, and the child, when age appropriate, which details the acceptable conditions of contact between the sex offender and the child. The safety plan must be reviewed and approved by the Department of Corrections before being submitted to the commission; and

e. Evidence that the child's parent or legal guardian, if the parent or legal guardian is not the sex offender, understands the need for and agrees to the safety plan and has agreed to provide, or to designate another adult to provide,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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394 constant supervision any time the child is in contact with the
395 offender.

396
397 The commission may not appoint a person to conduct a risk
398 assessment and may not accept a risk assessment from a person
399 who has not demonstrated to the commission that he or she has
400 met the requirements of a qualified practitioner as defined in
401 this section.

402 6. If the victim was under age 18, a prohibition on
403 working for pay or as a volunteer at any school, day care
404 center, park, playground, library, or other business or place
405 where children regularly congregate, as prescribed by the
406 commission.

407 7. Unless otherwise indicated in the treatment plan
408 provided by the sexual offender treatment program, a prohibition
409 on viewing, owning, or possessing any obscene, pornographic, or
410 sexually stimulating visual or auditory material, including
411 telephone, electronic media, computer programs, or computer
412 services that are relevant to the offender's deviant behavior
413 pattern.

414 8. Effective for a releasee whose crime is committed on or
415 after July 1, 2005, a prohibition on accessing the Internet or
416 other computer services until the offender's sex offender
417 treatment program, after a risk assessment is completed,
418 approves and implements a safety plan for the offender's
419 accessing or using the Internet or other computer services.

420 9. A requirement that the releasee must submit two
421 specimens of blood to the Florida Department of Law Enforcement
422 to be registered with the DNA database.

423 10. A requirement that the releasee make restitution to
424 the victim, as determined by the sentencing court or the

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commission, for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.

11. Submission to a warrantless search by the community control or probation officer of the probationer's or community controllee's person, residence, or vehicle. Such warrantless search includes the use of electronic monitoring or other means in the case of a person convicted of an offense under s. 775.21(4)(a)1.

(11) Effective for a releasee whose crime was committed on or after October 1, 2006, in violation of s. 787.01 (1)(b) or s. 787.02 (1)(b), and the unlawful activity involved a victim 15 years of age or younger and an offender 18 years of age or older, in addition to any other provision of this section, the commission must order electronic monitoring for the duration of the releasee's supervision.

Section 6. Subsection (4) of section 948.06, Florida Statutes, is amended to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.--

(4) Notwithstanding any other provision of this section, a probationer or an offender in community control who is arrested for violating his or her probation or community control in a material respect may be taken before the court in the county or circuit in which the probationer or offender was arrested. That court shall advise him or her of such charge of a violation and, if such charge is admitted, shall cause him or her to be brought before the court which granted the probation or community control. If such violation is not admitted by the probationer or offender, the court may commit him or her or release him or her

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456 with or without bail to await further hearing. However, if the
457 probationer or offender is under supervision for any criminal
458 offense proscribed in chapter 794, s. 800.04(4), (5), (6), s.
459 827.071, or s. 847.0145, or is a registered sexual predator or a
460 registered sexual offender, or is under supervision for a
461 criminal offense for which he or she would meet the registration
462 criteria in s. 775.21, s. 943.0435, or s. 944.607 but for the
463 effective date of those sections, the court must make a finding
464 that the probationer or offender poses no ~~is not~~ a danger to the
465 public prior to release with or without bail. In determining
466 that the offender poses no danger to the public ~~the danger posed~~
467 ~~by the offender's or probationer's release~~, the court may
468 consider the nature and circumstances of the violation and any
469 new offenses charged; the offender's or probationer's past and
470 present conduct, including convictions of crimes; any record of
471 arrests without conviction for crimes involving violence or
472 sexual crimes; any other evidence of allegations of unlawful
473 sexual conduct or the use of violence by the offender or
474 probationer; the offender's or probationer's family ties, length
475 of residence in the community, employment history, and mental
476 condition; his or her history and conduct during the probation
477 or community control supervision from which the violation arises
478 and any other previous supervisions, including disciplinary
479 records of previous incarcerations; the likelihood that the
480 offender or probationer will engage again in a criminal course
481 of conduct; the weight of the evidence against the offender or
482 probationer; whether or not the probationer is currently subject
483 to electronic monitoring; and any other facts the court
484 considers relevant. The court, as soon as is practicable, shall
485 give the probationer or offender an opportunity to be fully
486 heard on his or her behalf in person or by counsel. After such

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487 hearing, the court shall make findings of fact and forward the
488 findings to the court which granted the probation or community
489 control and to the probationer or offender or his or her
490 attorney. The findings of fact by the hearing court are binding
491 on the court which granted the probation or community control.
492 Upon the probationer or offender being brought before it, the
493 court which granted the probation or community control may
494 revoke, modify, or continue the probation or community control
495 or may place the probationer into community control as provided
496 in this section.

497 Section 7. Subsection (8) of section 947.141, Florida
498 Statutes, is created to read:

499 947.141 Violations of conditional release, control
500 release, or conditional medical release or addiction-recovery
501 supervision.--

502 (8) Because of the compelling state interest in protecting
503 the public from sexual offenders or predators granted the
504 privilege of conditional release, in any hearing alleging a
505 violation of community release by a releasee for failure to
506 comply with the residency exclusion in s. 947.1405, the
507 inability of the releasee to locate a residence in compliance
508 with s. 947.1405 shall not be a defense to the finding of a
509 violation under this section.

510 Section 8. Subsections (2) and (3) of section 948.063,
511 Florida Statutes, are created, and subsection (1) of said lines
512 is amended, to read:

513 948.063 Violations of probation or community control by
514 designated sexual offenders and sexual predators.--

515 (1) If probation or community control is revoked by the court
516 pursuant to s. 948.06(2)(e) and the offender is required to
517 register ~~designated~~ as a sexual offender or sexual predator

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pursuant to ss. 943.0435 or ~~s.~~ 775.21 for unlawful sexual activity involving a victim 15 years of age or younger and the offender is 18 years of age or older, and if the court imposes a subsequent term of supervision following the revocation of probation or community control, the court must order electronic monitoring as a condition of the subsequent term of probation or community control.

(2) If the probationer or offender is required to register as a sexual offender or sexual predator pursuant to ss. 943.0435 or 775.21 for unlawful sexual activity involving a victim 15 years of age or younger and the offender is 18 years of age or older, and has violated the conditions of his or her probation or community control, but the court does not revoke the probation or community control, the court shall nevertheless modify the probation or community control to include electronic monitoring for any probationer or offender not then subject to electronic monitoring.

(3) Because of the compelling state interest in protecting the public from sexual offenders or predators on probation, in any hearing alleging a violation of probation by a releasee for failure to comply with the residency exclusion in s. 948.30, the inability of the probationer to locate a residence in compliance with s. 948.30 shall not be a defense to the finding of a violation under this section.

Section 9. Subsections (1) and (3) of section 948.30, Florida Statutes, are amended, and subsection (4) of said section is created, to read:

948.30 Additional terms and conditions of probation or community control for certain sex offenses.--Conditions imposed pursuant to this section do not require oral pronouncement at the time of sentencing and shall be considered standard

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549 conditions of probation or community control for offenders
550 specified in this section.

551 (1) Effective for probationers or community controllees
552 whose crime was committed on or after October 1, 1995, and who
553 are placed under supervision for violation of chapter 794, s.
554 800.04, s. 827.071, or s. 847.0145, the court must impose the
555 following conditions in addition to all other standard and
556 special conditions imposed:

557 (a) 1. (b) If the victim was under the age of 18, a
558 prohibition on living within 1,000 feet of a school, day care
559 center, park, playground, or other place where children
560 regularly congregate, as prescribed by the court. The 1,000-foot
561 distance shall be measured in a straight line from the
562 offender's place of residence to the nearest boundary line of
563 the school, day care center, park, playground, or other place
564 where children congregate. The distance may not be measured by a
565 pedestrian route or automobile route.

566 2. If the victim was under the age of 18, a prohibition on
567 living within 1,500 feet of a school, day care center, park,
568 playground, library or other business or place where children
569 regularly congregate, as prescribed by the court. This distance
570 shall be measured in a straight line from the offender's place
571 of residence to the nearest boundary line of the school, day
572 care center, park, playground, library, or other business or
573 place where children congregate. The distance may not be
574 measured by a pedestrian route or automobile route.

575 (k) Submission to a warrantless search by the community
576 control or probation officer of the probationer's or community
577 controllee's person, residence, or vehicle. Such a warrentless
578 search includes the use of electronic monitoring or other means

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in the case of a person convicted of an offense under s.
775.21(4)(a)1.

(3) Effective for a probationer or community controllee
whose crime was committed on or after September 1, 2005, and
who:

(a) Is placed on probation or community control for a
violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071,
or s. 847.0145 and the unlawful sexual activity involved a
victim 15 years of age or younger and the offender is 18 years
of age or older;

(b) Is designated a sexual predator pursuant to s. 775.21;
or

(c) Has previously been convicted of a violation of
chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.
847.0145 and the unlawful sexual activity involved a victim 15
years of age or younger and the offender is 18 years of age or
older, the court must order, in addition to any other provision
of this section, mandatory electronic monitoring as a condition
of the probation or community control supervision.

(4) Effective for a probationer or community controllee
whose crime was committed on or after October 1, 2006, who has
previously been convicted of a violation of 787.01 (1)(b) or
787.02 (1)(b) and the unlawful sexual activity involved a victim
15 years of age or younger and the offender is 18 years of age
or older, the court must order, in addition to any other
provision of this section, mandatory electronic monitoring as a
condition of the probation or community control supervision.

Section 10. This act shall take effect October 1, 2006.

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610 ===== T I T L E A M E N D M E N T =====

611 Remove the entire title and insert:

612

613 An act relating to public safety; amending s. 775.21;
614 relating to The Florida Sexual Predator Act; creating s.
615 775.215; relating to residency exclusions for sexual
616 offenders or predators; local ordinances preempted;
617 amending s. 775.24, F.S.; relating to the duty of the
618 court to uphold laws governing sexual predators and
619 offenders; amending s. 794.065, F.S.; relating the
620 unlawful place of residence for persons convicted of
621 certain sex offenses; amending s. 947.1405, F.S.; relating
622 to conditional release program; creating s. 947.141, F.S.,
623 violations of conditional release, control release, or
624 conditional medical release or addiction-recovery
625 supervision; amending s. 948.06, F.S.; relating to the
626 violation of probation or community control; revocation;
627 modification; continuance; failure to pay restitution or
628 cost of supervision; amending s. 948.063, F.S.; relating
629 to violations of probation or community control by
630 designated sexual offenders and sexual predators; amending
631 s. 948.30, F.S.; relating to terms and conditions of
632 probation or community control for certain sex offenses;
633 providing an effective date.

634

COMMITTEE MEETING REPORT

Judiciary Committee

4/4/2006 10:15:00AM

Location: Morris Hall (17 HOB)

HB 511 CS : On-line Dating Services

☒ *Not Considered*

Committee meeting was reported out: Tuesday, April 04, 2006 12:21:27PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/4/2006 10:15:00AM

Location: Morris Hall (17 HOB)

HB 591 CS : Electronic Monitoring

☒ *Not Considered*

Committee meeting was reported out: Tuesday, April 04, 2006 12:21:27PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/4/2006 10:15:00AM

Location: Morris Hall (17 HOB)

Summary:

Judiciary Committee

Tuesday April 04, 2006 10:15 am

HB 129 Favorable With Committee Substitute

Yeas: 8 Nays: 2

Amendment 1 Withdrawn

Amendment 2 Withdrawn

Amendment 3 Withdrawn

Amendment 4 Adopted

Yeas: 10 Nays: 0

Amendment 4a Withdrawn

HB 339 CS Favorable With Committee Substitute

Yeas: 9 Nays: 0

Amendment 1 Adopted Without Objection

HB 511 CS Not Considered

HB 591 CS Not Considered

Committee meeting was reported out: Tuesday, April 04, 2006 12:21:27PM